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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of  
  
Price Cap Regulation of Local  
Exchange Carriers  
  
Rate of Return Sharing  
And Lower Formula Adjustment

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CC Docket No. 93-179

REPLY COMMENTS OF THE NYNEX TELEPHONE COMPANIES

New York Telephone Company  
and  
New England Telephone and  
Telegraph Company

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Dated: September 1, 1993

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REPLY COMMENTS OF THE NYNEX TELEPHONE COMPANIES

New York Telephone Company ("NYT") and New England Telephone and Telegraph Company ("NET"), collectively the "NYNEX Telephone Companies" or "NTCs", hereby file their Reply to the Comments that were filed in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above referenced proceeding.<sup>1</sup>

I. INTRODUCTION AND SUMMARY

Several parties have attempted to complicate an issue that is really quite simple: should the local exchange carriers ("LECs") normalize their rates of return by "adding-back" the effect of sharing and lower formula adjustment ("LFA") revenues for purposes of computing their sharing obligations and LFAs

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<sup>1</sup> Rate of Return Sharing and Lower Formula Adjustment, CC Docket No. 93-179, Notice of Proposed Rulemaking, FCC 93-325, released July 6, 1993. A list of the parties that filed Comments, including the abbreviations used herein, is attached as Exhibit 1.

for the subsequent period? The NPRM demonstrates that normalization is not only logical, but necessary, to carry out the earnings limitations of the Commission's price cap system. Non-normalized rates of return would give an incorrect picture of a LEC's performance by artificially lowering a LEC's rate of return for sharing amounts and by artificially inflating a LEC's rate of return for LFA amounts.

The NPRM's conclusions are supported and illustrated in a series of mathematical charts. Several commenters challenge the Commission's conclusions by offering alternative analyses. These analyses, however, are riddled with errors and they prove nothing.

Several commenters argue that the Commission must equate sharing with refunds in order to require normalization. This is incorrect. Although sharing is not a refund, it still must be based on normalized rates of return to produce the amount intended by the price cap rules.

The NTCs disagree with the commenters who argue that the NPRM proposes to change the rules on calculating rates of return, rather than to clarify the requirements of the existing rules. The Commission never amended the rules that require the LECs to report "earned", i.e., normalized, rather than booked revenues on their Form 492 rate of return reports. Although the amended Form 492 does not contain a line item that adds sharing or removes LFA amounts, it still requires the LECs to adjust the revenues on line 1 by the amount of sharing or LFA revenues, just as it requires the LECs to increase line 1 revenues for FCC-ordered refunds and for credits given to

customers for overbillings in prior periods. Because the NPRM merely clarifies existing requirements, the commenters who argue that it would constitute retroactive rulemaking to apply the rules to the pending investigation of the 1993 Annual Access Tariffs are incorrect.

Some of the commenters argue that add-back will reduce the incentives for the LECs to become more efficient. The commenters are wrong. Add-back merely maintains the existing efficiency incentives by enforcing the rate of return limitations that the Commission adopted in the LEC Price Cap Order.<sup>2</sup> The NTCs agree with the commenters who believe that the Commission should increase the incentives for the LECs to become more efficient by eliminating sharing entirely when the Commission reviews its price cap rules.

## II. THE COMMENTERS FAIL TO UNDERMINE THE COMMISSION'S CONCLUSION THAT ADD-BACK IS NECESSARY TO CALCULATE SHARING OBLIGATIONS AND LOWER FORMULA ADJUSTMENTS

The NPRM demonstrates in a straight-forward and convincing manner that add-back is necessary to enforce the earnings limitations of the price cap plan and that non-normalized rates of return produce an inaccurate picture of earnings for purposes of computing sharing and LFA amounts.<sup>3</sup> Several commenters presented alternative charts in an attempt to show that add-back distorts the LECs' earnings levels and

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<sup>2</sup> Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786 (1990).

<sup>3</sup> See NPRM, Appendix A.

produces the wrong amount of sharing or LFA.<sup>4</sup> These charts are riddled with errors and they do nothing to rebut the Commission's analysis.

Bell Atlantic uses the analysis in its charts 1-1 and 1-2 to argue that add-back forces a LEC to share additional amounts year after year in excess of the 50 percent sharing obligation.<sup>5</sup> However, Bell Atlantic's charts rely upon incorrect and unjustified applications of the sharing mechanism. In chart 1-1, Bell Atlantic tries to show that, without add-back, a LEC that earned 12.90% in the first year would earn precisely 12.25% in every subsequent year, after sharing. However, Bell Atlantic treats the sharing adjustment in year 2 as permanent, rather than as a one-year adjustment.<sup>6</sup> Since the year 2 sharing amount must be reversed, the LEC would earn 12.90% in year 3. This would produce another sharing adjustment in year 4, resulting in the "see-saw" effect described in the NPRM. Over the five-year period, the failure to include add-back would cause the LEC to share less than half of the correct amount.<sup>7</sup>

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<sup>4</sup> See Bell Atlantic Workpapers; Ameritech Exhibit 1; MCI Table 1; US West Table 1.

<sup>5</sup> Bell Atlantic at pp. 2-3.

<sup>6</sup> This may occur because Bell Atlantic reverses the sharing adjustment twice each year in Chart 1-1, as it does in charts 1-3, 1-4, 2-1 and 2-2. See discussion infra.

<sup>7</sup> Bell Atlantic also incorrectly computes the year 2 sharing obligation as being equal to the line 11 total of excess earnings subject to sharing, rather than to the after tax sharing amount.

In chart 1-2, Bell Atlantic tries to show that add-back "reverberates" in subsequent years, producing sharing in excess of 100% of earnings over time.<sup>8</sup> However, chart 1-2 treats the cumulative sharing obligation, with add-back, as arising solely from the earnings in year 1. This is incorrect. The total price cap sharing obligation on line 15, if it included reversal of the previous year's sharing each year and add-back of sharing in the current year's revenues, would properly show a sharing amount of \$23 million each year, corresponding to the amount of sharing that the LEC should make based on an underlying rate of return of 12.9% for each year. The cumulative sharing that Bell Atlantic shows is too low because it fails to include the effect of each year's sharing reversal on the revenues on line 1, which produces an incorrect rate of return on line 5 before sharing.<sup>9</sup>

Bell Atlantic's charts on the effect of add-back on the LFA are similarly flawed. In chart 1-3, Bell Atlantic includes productivity changes (i.e., expense changes) in years 2 and 3 that are sufficient to eliminate the need for a LFA. In effect, Bell Atlantic assumes that the LEC exceeds the 3.3 percent productivity standard that the Commission adopted in

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<sup>8</sup> See Bell Atlantic at p. 3.

<sup>9</sup> Chart 1-2 has other errors. As in chart 1-1, Bell Atlantic applies a permanent revenue reduction of \$26 million after year 1, despite the fact that the sharing amount from year 1 should be reversed after year 2. In addition, Bell Atlantic added back only \$12 million in year 2, based on the half-year effect of sharing, even though it reduced revenues in line 1 for the full-year effect of sharing. This chart is hopelessly muddled and it cannot possibly show any valid results.

the LEC Price Cap Order. A LEC that was not able to achieve higher productivity growth than the Commission's standard would need a LFA in each year to achieve the 10.25% lower adjustment level, after the LFA was reversed each year. Thus, Bell Atlantic inadvertently shows in this chart that if the Commission did not allow add-back, it would impose a higher productivity standard on underearning LECs than it adopted in the LEC Price Cap Order.

Bell Atlantic includes different productivity changes in chart 1-4 to produce the same underlying rates of return as in chart 1-3, before add-back. By including arbitrary and unjustified productivity changes from year to year, Bell Atlantic makes it impossible to compare the results solely due to add-back vs. not adding back. This chart also implies a higher productivity standard because, after add-back, the LFAs in years 2, 3, 4, and 5 are lower than in year 1. Moreover, Bell Atlantic's methodology makes it appear that the sharing and LFA amounts are all attributable to year 1 when, in fact, they reflect the cumulative effect of LFA amounts for each year.

In charts 2-1 and 2-2, Bell Atlantic omits the productivity changes, but it miscalculates the year 3, 4 and 5 revenues. Bell Atlantic reverses the year 2 LFA twice in year 3, which should show the same revenues as in year 2 plus half the LFA amount for underearnings in year 2. These errors affect the calculation of LFA amounts for all years after year 2. Chart 2-2, because of these errors, incorrectly shows that, even with add-back, the LEC earns less than the 10.25% minimum



rate of return. However, as the Commission demonstrated in the NPRM, add-back should allow an underearning LEC to earn up to, but not more than, the lower adjustment amount of 10.25% when all other factors are held constant.

Ameritech disputes the Commission's observation that the failure to include add-back creates a "see-saw" effect on earnings by presenting charts that allegedly show that, without add-back, the rate of return "stabilizes naturally."<sup>10</sup> The flaw in Ameritech's reasoning is that the rate of return "stabilizes" too high. Based on a 14.25% rate of return, a LEC should earn 13.25% after sharing 50% of revenues between 12.25% and 14.25%. Ameritech's exhibit shows that, without add-back, the LEC's rate of return stays well above 13.25% in years 3 through 6. The rate of return "stabilizes" (that is, the see-saw effect becomes less pronounced over time) only because sharing is limited to 50% of a LEC's overearnings. This was shown in the graph attached to the NTCs' initial comments in this docket. For a LEC earning below the lower adjustment level, the "see-saw" effect continues at the same magnitude because the LFA is based on 100% of the LEC's underearnings.

Ameritech also argues that add-back "pushes" a LEC into the sharing zone in subsequent years even if it only overearned in the first year.<sup>11</sup> In Ameritech's example, a LEC earns over 12.25 percent in the first year but not more than 12.25% in the second and subsequent years, without

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<sup>10</sup> Ameritech at p. 5 and Exhibit 1.

<sup>11</sup> Ameritech at p. 6.

add-back. With add-back, Ameritech shows that the sharing amount caused by year 1 throws the LEC into sharing for years 2 and 3. What Ameritech ignores is that the sharing obligation in year 2 would be reversed in year 3. If the LEC earned 12.25% in year 2 with sharing, but without add-back, it would earn in excess of 12.25% in year three after the sharing reversal. Therefore, the see-saw effect would occur, and the LEC would share the proper amount only every other year. Add-back is the only way to properly calculate the LEC's sharing obligation each year.

US West argues that add-back causes a LEC's calculated rate of return to rise each year even when its underlying operational results do not change.<sup>12</sup> However, its analysis conveniently assumes that the LEC's API is 10% below its PCI, so that the LEC does not have to change its rates despite the sharing adjustment to the PCI. Since sharing has no effect on actual revenues in US West's example, it is impossible to evaluate the effect of add-back. If the LEC's API were equal to its PCI, its rate of return after add-back would be the same each year. That is, if the LEC earned 14.25% in the first year, its normalized earnings would be 14.25% in the second year, after add-back of sharing revenues. This would produce the same sharing amount in the third year. The LEC's underlying rate of return would remain at 14.25%, and its actual or booked rate of return would be 13.25%, after sharing, each year after the base year. Thus, add-back does not inflate

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<sup>12</sup> US West at p. 8.

either the LEC's underlying rate of return or its reported rate of return -- it simply ensures that the rate of return for purposes of computing a sharing obligation is not artificially reduced by the amount of sharing from the previous year.

Finally, MCI objects that add-back (that is, removal) of LFA revenues permanently excludes LFA revenues from a LEC's rate of return calculations.<sup>13</sup> MCI notes that if LFA revenues due to underearnings in year 1 are removed from the rate of return calculation in year 2 through add-back, the revenues for both years are below actual billed revenues. However, this does not in any way undermine the earnings backstop mechanism. In effect, LFA revenues under add-back in year 2 are treated as having been "earned" in year 1. It only appears that total billed revenues are not included in the rate of return reports because the LEC does not retroactively change its rate of return for year 1. If the revenues that were removed from year 2 were included in year 1, the LEC's earnings for both years would be at the lower adjustment mark of 10.25%. This shows that add-back allows the LEC to recover underearnings in the previous year, and no more. The LFA revenues must be removed from the rate of return report for year 2 to properly calculate the LFA needed for year three to maintain the 10.25% rate of return after reversal of the year 2 LFA. Without add-back, the LEC's rate of return would be below 10.25% for the entire period.

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<sup>13</sup> MCI at pp. 8-9 and Table 1.

Thus, none of these analyses does anything to undermine the Commission's demonstration of the need to normalize earnings by adding back sharing and LFAs.

III. LOWER FORMULA ADJUSTMENT REVENUES MUST BE REMOVED FROM EARNINGS TO COMPLY WITH THE PRICE CAP MINIMUM RATE OF RETURN

MCI supports add-back of sharing amounts but not of LFAs. MCI cannot have it both ways. Add-back performs the same function whether it is applied to sharing or LFAs -- it normalizes a LEC's rate of return for purposes of computing the sharing obligation or LFA amount for the next period.

MCI complains that removal of LFA revenues excludes revenues actually billed to customers.<sup>14</sup> Add-back of sharing could be criticized on the same basis, because it includes revenues that were not billed to customers during the current reporting period. In both cases, add-back simply removes the effect of additional revenues (in the case of an LFA), or of revenues that were not collected (in the case of sharing) in the current period due to events that occurred during the prior period.

MCI maintains that, under the previous rate of return regulation, the Commission never allowed the LECs to exclude revenues for purposes of computing their earnings.<sup>15</sup> This is incorrect. Under the rule that the LECs must report "earned" revenues during a reporting period, the LECs have always

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<sup>14</sup> MCI at p. 6.

<sup>15</sup> MCI at p. 11.

excluded revenues from backbilling (revenues collected in the current period for services that were provided in a previous period) from their reported earnings under both the rate of return and price cap systems. LFAs are similar to backbilling because they are "earned" in the previous period when the LEC underearned, and because they do not reflect the revenues that the LEC would otherwise have collected during the reporting period.

MCI also argues that the LECs never normalized rate increases under the rate of return rule.<sup>16</sup> This is true only because there were no out-of-period rate increases under the previous automatic refund rule, which had no mechanism for correcting underearnings in a previous period. Had the automatic refund rule included a mechanism for rate increases due to earnings in previous periods, the LECs would have been required to report "earned" revenues by excluding those revenues from the period in which they were received. This is similar to the treatment of refunds. Whether refunds are made through credits paid directly to specific customers or through prospective rate reductions, the LECs must normalize their revenues in the same manner by adding-back the refunds to their

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<sup>16</sup> Id. MCI points out that the LECs did not normalize rate increases due to midcourse corrections under the rate of return regime. However, midcourse corrections were not out of period events. Those rate increases occurred during the reporting period to re-target earnings to the authorized rate of return during the remainder of the reporting period. Because they were not designed to recover underearnings that occurred during previous reporting periods, there was no need to normalize the revenues from those rate charges.

rate of return reports. For the same reasons, it is irrelevant whether a LEC receives out of period revenues in the form of backbilling or an LFA rate increase -- the LEC must still exclude those revenues from its earnings to report earned revenues for the current reporting period.

MCI also criticizes add-back when applied to LFA because it "guarantees" that a LEC will earn at the lower adjustment mark of 10.25%.<sup>17</sup> MCI argues that the Commission did not establish 10.25% as the minimum rate of return for price cap LECs.<sup>18</sup> It notes that under the previous rate of return regime, the LECs were required to refund overearnings but were not allowed to raise prices for underearnings. This is true, and it is also why the automatic refund mechanism was overturned in AT&T v. FCC.<sup>19</sup> The court found that a system that automatically refunded overearnings but provided no relief for underearnings would, over time, drive a carrier's return below the minimum level that the Commission had determined was necessary for the carrier to stay in business. In the LEC Price Cap Order, the Commission avoided the flaw in the automatic refund rule by adopting a minimum rate of return

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<sup>17</sup> MCI at pp. 12-14. MCI does not object to the fact that add-back "guarantees" that a LEC in the sharing mode will not earn more than the maximum of 14.25%. While MCI's self-interest in policies that will reduce rates is understandable, the Commission must adopt a consistent approach to add-back for both sharing and LFAs.

<sup>18</sup> MCI at pp. 10-12.

<sup>19</sup> American Tel. & Tel. Co. v. FCC, 836 F.2d 1386 (D.C. Cir. 1988).

along with a mechanism -- the LFA -- to provide relief for a carrier that earned below the lower limit.

The Commission adopted the lower adjustment mark based on its unequivocal finding that a LEC earning less than 10.25% over an extended period of time would be unable to maintain service.<sup>20</sup> By setting the lower limit 100 basis points below the authorized rate of return of 11.25%, the Commission gave underearning LECs an incentive to improve their productivity, without setting the lower limit so low as to endanger their ability to remain in business.<sup>21</sup> MCI's issue is not with the NPRM, which does nothing more than ensure that the LFA is properly computed to bring earnings up to 10.25%, but with the price cap system that the Commission adopted in 1990. These arguments are irrelevant to the NPRM, and MCI should reserve them for the Commission's upcoming review of the price cap system.

The NPRM demonstrates that if LFA revenues are not removed, an underearning LEC may earn at 10.25% in some years, but that the "see-saw" effect would ensure that the LEC would underearn over an extended period. Thus, a failure to exclude

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<sup>20</sup> See LEC Price Cap Order at para. 148.

<sup>21</sup> LEC Price Cap Order at paras. 164-65. Thus, Bell Atlantic misses the point when it quotes the LEC Price Cap Order to argue that the Commission rejected the notion that the price cap system should guarantee the LECs that they will achieve earnings at the full rate of return. See Bell Atlantic at p. 3. The "full" level of the prescribed rate of return is 11.25%. The backstop mechanism that the Commission adopted only increases LEC earnings up to 10.25%, in order to retain an incentive for increased efficiency.

LFA revenues would clearly be inconsistent with the Commission's price cap backstop mechanism for low earnings.

IV. SHARING DOES NOT HAVE TO BE EQUATED WITH REFUNDS TO JUSTIFY ADD-BACK

Some of the commenters oppose add-back on the grounds that the Commission is attempting to turn the price cap sharing mechanism into a rate of return refund mechanism.<sup>22</sup> They argue that refunds are backward-looking attempts to correct past overearnings, while the price cap backstop mechanism is a forward-looking effort to re-target earnings.<sup>23</sup> Some even argue that add-back is prohibited because it constitutes retroactive ratemaking.<sup>24</sup> These arguments miss the point. Regardless of whether sharing is a refund mechanism or not, normalization of a LEC's rate of return is necessary to properly implement the policies that the Commission adopted in the LEC Price Cap Order.

The Commission's policies on sharing and LFAs are quite clear. Sharing and LFA amounts are calculated based on

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<sup>22</sup> See, e.g., GTE at p. 5.

<sup>23</sup> See, e.g., MCI at pp. 18-19.

<sup>24</sup> See, e.g., GTE at p. 5; Ameritech at pp. 2-3. Ameritech misquotes the Commission's Price Cap Reconsideration Order by making it appear that the Commission decided that "Sharing is intended as a means of sharing prospective productivity gains, and not a refund mechanism." Ameritech at p. 3. The language it quotes is a summary of the comments of BellSouth in that proceeding, and it is not a finding by the Commission. See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Order on Reconsideration, FCC 91-115, released April 17, 1991, p. 50 n.148.



the base year, i.e., past period, rate of return. The sharing and LFA adjustments that are calculated in this manner are made to the future period rates as a one-time adjustment. Thus, these adjustments are not designed to target future rates to a particular rate of return; they are always calculated with regard to past period earnings. It is too late in the game for a party to oppose this process or to characterize it as retroactive ratemaking, since the period for petitions for reconsideration of the price cap policies has long passed. The only issue at this point is whether add-back is necessary to carry out those policies. The NPRM clearly demonstrates that it is. Without add-back, a LEC's rate of return does not reflect its underlying financial results, and it is impossible to enforce the earnings limitations of 10.25% on the low end and 14.25% on the high end.

V. THE NPRM CLARIFIES, RATHER THAN MODIFIES, THE REQUIREMENTS OF THE COMMISSION'S PRICE CAP RULES

BellSouth disputes the Commission's characterization of the NPRM as a clarification of the requirements of the price cap rules, rather than as a rule change, and it argues that the Commission cannot apply a rule change retroactively.<sup>25</sup>

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<sup>25</sup> See, e.g., BellSouth at pp. 3-9. See also AT&T at p. 6. BellSouth also cites the NPRM for the proposition that ratepayers would be harmed by retroactive application of add-back because it would increase rates by \$20 million. BellSouth at p. 8. This is incorrect. BellSouth cites the Commission's calculations of the 1992 sharing and LFA amounts, which do not represent the impact of add-back on 1993 sharing levels, which are affected by the LECs' underlying 1993 rates of return. The NTCs calculate that add-back would reduce nationwide access rates by over \$20 million if applied to 1993 rates.

BellSouth rests its case entirely on the technicalities of the Form 492A report, and it does not refute the Commission's findings that (1) the existing rules place the burden on the LECs to calculate sharing amounts in accordance with the Commission's sharing mechanism; and (2) the only way to properly calculate a LEC's sharing obligation is to add back the effects of sharing or LFAs for previous periods. Nor does BellSouth dispute the fact that the Commission retained the Form 492 requirement that LECs report earned (i.e., normalized) revenues. These requirements, which predate the NPRM, effectively refute BellSouth's argument that the NPRM proposes a retroactive rule change. Clearly, the NPRM merely clarifies the requirements of the Commission's price cap rules, and the principles described in the NPRM apply with full force to the issues in the pending investigation of the 1993 Annual Access Tariffs.

BellSouth is wrong in its analysis of how the revised Form 492 requires the LECs to report their rates of return. BellSouth notes that the previous Form 492 report contained a line 6 to itemize refunds in the base period, and that it required the LEC to subtract this amount from the operating income on line 3 to produce a "net return" on line 7. In the revised Form 492A, the Commission retained a line for FCC-ordered refunds (line 7) and it added a line for sharing and LFA amounts (line 6), but it did not retain a final line that would have required the LECs to add-back the sharing/LFA amount or the FCC-ordered refund amount to produce a "net

return" similar to the previous line 7.<sup>26</sup> According to BellSouth, this "makes it clear that 'add-back' forms no part of the rate of return calculations under the LEC price cap orders or rules."<sup>27</sup> This argument proves too much. If the absence of a final line requiring the LECs to add-back sharing/LFA amounts on line 6 were dispositive, then the same would be true of the FCC-ordered refunds on line 7. Yet, even Ameritech admits that the LECs must normalize their revenues on line 1 by adding-back the FCC-ordered refunds on line 7.<sup>28</sup> Thus, the fact that these items are broken out on lines 6 and 7 does not mean that the Commission changed its rules on out-of-period adjustments. To the extent that sharing/LFA amounts, FCC-ordered refunds, backbillings, and credits for overbillings are calculated and applied with reference to past periods, the effect of these items must be excluded from "booked" revenues to show "earned" revenues on line 1. The fact that the Commission modified the Form 492 to eliminate separate calculations of the effect of refunds does not mean that the Commission amended its normalization rule sub silentio.

Thus, the rule has always been that the LECs must normalize their revenues for all out-of-period events, including sharing/LFA revenues. In addition, normalization through add-back is implicit in the rules on the backstop

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<sup>26</sup> See BellSouth at pp. 5-6.

<sup>27</sup> Id.

<sup>28</sup> See Ameritech at p. 3.

sharing and LFA mechanism. No commenter has provided any evidence to the contrary.

VI. THE NYNEX TELEPHONE COMPANIES AGREE THAT THE COMMISSION SHOULD ENHANCE THE INCENTIVES FOR THE LECs TO BECOME MORE EFFICIENT BY ELIMINATING SHARING IN ITS REVIEW OF THE PRICE CAP RULES

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Several parties argue that add-back limits the incentives for the LECs to become more efficient by limiting their potential earnings.<sup>29</sup> We agree. However, that is because add-back enforces the 14.25% upper limit on earnings that the Commission adopted in the LEC Price Cap Order. Such a limit dampens the incentive of the LECs to take risks when investing in the domestic network infrastructure because their potential gains are limited. The price cap system already protects ratepayers through the caps on price increases. There is no need to engraft further "protections" by placing an inflexible ceiling on the earnings that the LECs can achieve by investing in the telecommunications network.

The way to encourage innovation and risk-taking is not to re-interpret the Commission's existing rules on the backstop mechanism by deciding that normalization never existed. Rather, the Commission should amend its price cap rules to eliminate sharing, which makes the issue of how to calculate rates of return moot. For this reason, the NTCs support the commenters that urge the Commission to eliminate sharing in the upcoming review of the price cap rules.<sup>30</sup>

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29 See, e.g., Pacific Companies at pp. 2-4; USTA at pp. 2-5.

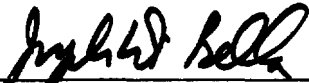
30 See id.

VII. CONCLUSION

For the foregoing reasons, the Commission should adopt its proposed rule to clarify that the LECs should add-back the effects of sharing and LFAs in calculating their rates of return for the backstop earnings mechanism.

Respectfully submitted,

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Dated: September 1, 1993

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5. GTE SERVICE CORPORATION ("GTE")
6. MCI TELECOMMUNICATIONS CORPORATION ("MCI")
7. PACIFIC BELL and NEVADA BELL ("PACIFIC COMPANIES")
8. ROCHESTER TELEPHONE CORPORATION ("ROCHESTER")
9. SOUTHERN NEW ENGLAND TELEPHONE COMPANY ("SNET")
10. SOUTHWESTERN BELL TELEPHONE COMPANY ("SWBT")
11. UNITED STATES TELEPHONE ASSOCIATION ("USTA")
12. US WEST COMMUNICATIONS, INC. ("US WEST")

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REPLY  
COMMENTS OF THE NYNEX TELEPHONE COMPANIES, was served by first  
class United States mail, postage prepaid, on each of the  
parties indicated on the attached service list, this 1st day of  
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